



An
Bord
Pleanála

Inspector's Report ABP-306087-19.

Development

Permission to construct an underslat effluent storage tank in existing shed, necessary refurbishment to same shed, proposed 2.4m high boundary wall, holding yard, cattle handling facility and hardcore yard for bale silage storage.

Retention permission to retain concrete yard as laid and full planning to extend same and associate site works.

Location

Guileen, Stradbally, Co. Laois.

Planning Authority

Laois County Council.

Planning Authority Reg. Ref.

19/264.

Applicant(s)

Philip Hendy.

Type of Application

Permission & Retention.

Planning Authority Decision

Grant with Conditions.

Type of Appeal

Third Party

Appellant(s)

Niamh Fenelon.

Observer(s)

None.

Date of Site Inspection

19/02/2020.

Inspector

A. Considine.

1.0 Site Location and Description

- 1.1. The site is located off a private lane which is accessed off a local road in the rural townland of Guileen, approximately 4.5km to the south of the town of Stradbally, Co. Laois. The site is located above the road level and approximately 48m to the north east of an existing house, Guileen Lodge, and the home of the appellant in this case and the development lies approximately 61m from the public road.
- 1.2. There is an existing agricultural shed in a state of disrepair on the site and it appears that the site has not been used for agricultural purposes in the recent past. The site has a stated area of 0.24ha and comprises part of a larger landholding which extends to the north east.

2.0 Proposed Development

- 2.1. Permission is sought to construct an underslat effluent storage tank in existing shed, necessary refurbishment to same shed, proposed 2.4m high boundary wall, holding yard, cattle handling facility and hardcore yard for bale silage storage, all at Guileen, Stradbally, Co. Laois. In addition, retention permission to retain concrete yard as laid and full planning to extend same and associate site works all at Guileen, Stradbally, Co. Laois. The development will house 40 young cattle and the proposed new slatted effluent tank will have a capacity of 240m³.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the development subject to 7 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planning report considered the proposed development in terms of the planning history, site layout, access and compliance with the Laois County Development Plan 2017-2023. There was no third-party submission to the PA during

the initial assessment period. The report raised concerns in terms of the access to the site and in particular, the limited sight distances available at the entrance to the site and the report concludes requiring further information in relation to access and sightlines. The further information request, no. 3, required that:

where a section of roadside boundary which is outside the red line of the site needs to be removed and realigned to achieve sightlines at the proposed entrance, the applicant shall submit:

- a) A revised site layout plan with the area to be removed or set back shown within the red line boundary; and
- b) A letter from the relevant landowner consenting to the works to the boundary.

The report includes a statement on Biodiversity.

Following a request for further information, and the subsequent submission of public notices and a letter of consent from the appropriate landowner, an alternative access arrangement was deemed acceptable by the Planning Authority who granted planning permission for the development, subject to 7 conditions.

Following a receipt of the response to the FI request, the planning report concludes that planning permission should be granted subject to conditions. This report formed the basis of the PAs decision to grant permission for the development.

3.2.2. **Other Technical Reports**

None.

3.2.3. **Prescribed Bodies**

None.

3.2.4. **Third Party Submissions**

Ms. Niamh Fenlon: Objects to the proposed development on the basis of previous unauthorised works at the site, issues in relation to processing of the application, roads and traffic issues including inadequate sight distances and the fact that the development will result in an intensification of use the site and the entrance. Further issues raised relate to inadequate details submitted in response to the FI request and raises

concerns in relation to the proximity of the site to her home and impacts on residential amenity as well as issues in terms of boundaries. Issues relating to impact on water services are also raised.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

UD-18/126: A Warning Letter issued to the landowner.

This is noted in the Planning Report without further details provided.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The Laois County Development Plan 2017-2023 is the relevant policy document relating to the subject site. Section 5.10 of the Plan deals with Rural Economic Activities and notes that just over half of Laois residents live in rural areas and that rural economic sectors remain very important in Laois. The Council recognises the importance of agriculture for sustaining, enhancing and maintaining a viable rural economy. The Council will support and facilitate agricultural restructuring and diversification within the framework of the 2020 Strategy (Department of Agriculture 2010), in order to integrate the sector more closely with rural development, in pursuit of environmental and social objectives. This approach accords with national policy as set out in the National Sustainable Development Strategy.
- 5.1.2. The Council supports the emphasis in the National Development Plan on investment, on measures for improving farm structures, including farm waste management, animal welfare, food quality and environmental protection, complementing the substantial investment in REPS.
- 5.1.3. Section 8 of the Plan relates to General Location and Pattern of Development and Section 8.5 of the Plan deals with Development Management Standards. DM 33 relates to the General Consideration for Agricultural Buildings and states as follows:

Agricultural developments have the potential to impact on the environment and the landscape. The traditional form of agricultural buildings is

disappearing with the onset of advanced construction methods and wider range of materials. Some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious major visual impacts.

In dealing with applications for agricultural developments the Planning Authority will have regard to the following:

- 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.
- 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.
- 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.
- 4) Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.
- 5) Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.
- 6) All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Ballyprior Grassland SAC (Site Code 002256) which is located approximately 1km to the north east of the site. Clopook Wood pNHA (Site Code 000860) is located approximately 1.3km to the south east of the site and Timahoe Esker pNHA (Site Code: 000421) lies approximately 2.9km to the west.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The appellant included a request for an oral hearing to be held as she felt that she may be in a better position to explain the grounds of appeal in person. The Board refused this request for an oral hearing.

6.1.2. The issues raised in the appeal are summarised as follows:

- Issues with sight distances at the entrance. The entrance is inadequate to accommodate the level of development proposed.
- The previous use of the site was a small stud farm with limited use of the entrance to the lands as horses primarily remained on the land.
- The proposed development represents an increased / intensified use of the entrance with the housing of cattle will require frequent movements on and off the land involving greater use of the entrance, including vehicles and agricultural machinery.
- Issues raised in terms of the response to the FI request and the amended access proposal. A new application should be sought from the applicant.
- The objector owns the land to the north west of the applicants' entrance and does not consent to any boundary amendments.
- Proposals for access to existing lands are not clear and a question as to what the proposed development is, is raised.

- The location of the new site notice was not at the newly proposed access and therefore, residents were not adequately notified.
- The location of the site on a steep hill may have implications if the storage facilities proposed overflow. The objectors house is located immediately below the site and within 100m of the site and no consent was sought.
- There are potential noise and nuisance impacts associated with the development.
- The proposed new wall to be constructed is raised as a concern in terms of potential impacts on residential amenity and garden area including encroachment, loss of light, shadows and overlooking.
- Are there implications for the water supply?

6.2. **Planning Authority Response**

The Planning Authority has not submitted a response to the third-party appeal.

6.3. **Observations**

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the planning history associated with the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of Development & Compliance with the Development Management Standards
2. Residential Amenities
3. Roads & Traffic
4. Appropriate Assessment

7.1. Principle of Development & Compliance with the Development Management Standards:

- 7.1.1. The subject appeal site is located in a rural area of Co. Laois. There is an existing agricultural building on the site and it is clear that the site has been used for agricultural purposes for many years. In principle, I have no objection to the retention of the existing shed on the site or the proposed extension, the subject of this appeal.
- 7.1.2. In terms of the principle of the development, the relevant policies and objectives are set out in the Laois County Development Plan, 2017-2023, being the relevant policy document. The appeal seeks permission to construct an underslat storage tank in an existing shed which is to be refurbished, and other works to develop the site as a holding yard and cattle handling facility. Retention permission is also sought for the existing concrete yard and permission to extend same.
- 7.1.3. Section 8.5 of the Plan deals with Development Management Standards and DM 33 relates to the General Consideration for Agricultural Buildings. This section of the Plan notes that agricultural developments have the potential to impact on the environment and the landscape and notes that some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious major visual impacts. In dealing with applications for agricultural developments the

Plan requires that regard is had to a number of criteria relating to siting and visual impacts associated with such buildings as well as environmental protections.

- 7.1.4. In the context of the actual building, the Board will note the presence of the existing structure on the site, with a stated floor area of 394m². The previous use of the structure was to keep horses, with 5 stables noted to the north east area of the existing structure. While in a state of deterioration, the shape and scale of the proposed development seeks to repair this structure and in terms of visual impacts associated with the building, I have no objections.
- 7.1.5. The proposal further proposes the installation of an underslat effluent tank with a capacity of 240m³, in order to facilitate the holding of 40 young cattle, the development of a holding yard, with crush, a silage storage yard, with soakpit as well as proposals to increase the concrete yard area to the east of the site by 185m². In addition, the applicant proposes to construct a 2.4m high wall along the south west boundary of the site, which lies adjacent to residential properties. The subject site lies within 30m of the closest house and lies immediately adjacent to the private open space associated with a second house.
- 7.1.6. While I have no objection in principle to an agricultural development in the rural area of Co. Laois, I have serious reservations regarding the proposal and the potential impacts on the existing residential amenities of properties adjacent to the site. I will further consider these issues below.

7.2. Residential Amenities

- 7.2.1. The third-party objector to the proposed development raises concerns in terms of roads and traffic issues which will be dealt with further in section 7.3 of this report. In addition to the above, I have concerns in terms of the proposed development and the potential impacts on the existing residential amenities of the two properties which lie within 30m of the site. In addition, I have serious concerns in terms of the proposed holding yard and slatted unit agitation point, as well as the proposed location of the silage storage yard and the soakpit to take run off from the shed. While I acknowledge the previous use of the building and the site for horses, I note the proposal before the Board will result in a significantly greater number of animals

using the site which has implications in terms of noise and other amenity issues, including smells and discharge from the site.

- 7.2.2. In the context of visual impacts, the Board will note the proposal to refurbish the existing building will have little impact on the visual amenity of the area or indeed, the residents in the immediate vicinity. The proposed 2.4m wall, which will extend along the south western boundary of the site will introduce a significant feature in the landscape, and particularly from the adjacent houses. Having regard to the site levels, it appears that the wall will be higher than the houses. The details relating to the wall are sparse and while I acknowledge the purpose of the wall, I would question the nature and finish.
- 7.2.3. In terms of noise, it is clear that the proposed development, within such close proximity to residential properties, and notwithstanding the rural location, would give rise to significant noise implications for residents. The proposal to retain the existing concrete yard, of 85m², and proposals to extend this area by 185m², giving an overall area of 270m², gives an indication of the proposed intensification of use at this site.
- 7.2.4. In addition to the issue of noise arising from the proposed development, I have serious reservations regarding the proposal to locate the silage yard, together with the extensive area of hard standing required for the holding yard and crush to the north west of the building. I would also note that there appears to have been some minor works carried out on the site since the submission of the planning application to the Planning Authority as on the date of my inspection, the shed had been filled with hay bales, and the silage storage area had a large number of silage bales already in place. Gravel had also been placed along the south western area to provide a hard surface for access to the rear of the shed – towards the silage storage area.
- 7.2.5. The Board will note that the appellant raised concerns in terms of loss of light, shadows and overlooking. The subject site lies to the north east of the residential properties and as such, I am generally satisfied that the development, if permitted will not impact on residential amenity by reason of loss of light or shadows. If the proposed wall is permitted, while presenting a visual amenity issue, it will eliminate issues of overlooking.

7.2.6. Having regard to the landholding area submitted in support of the proposed development, and notwithstanding the existing structure on the subject site, I would consider that a more appropriate location for the agricultural buildings and yard could be identified which would not so significantly impact upon the existing residents adjacent to the subject site. If permitted, I am satisfied that the development would result in a significant intensification of use and would give rise to significant disamenity to the adjacent residential properties by reason of visual impacts as well as impacts associated with noise and emissions from the site.

7.3. Roads & Traffic

7.3.1. The site is located on a local road where the speed limit of 80km/ph is in place. In the context of the road width and alignment in places, I would not consider that 80km/ph is an appropriate speed to drive, however I do accept that it is the limit. The Board will note that the sole concern arising from Laois County Council related to roads issues and in particular, restricted sightlines at the entrance. The issue of road safety was also raised by the third party who submitted that the proposed development represents an increased / intensified use of the entrance and that the housing of cattle will require frequent movements on and off the land involving greater use of the entrance, including vehicles and agricultural machinery.

7.3.2. In response to the concerns raised, the applicant submitted an alternative proposal regarding access to the site. The amended proposal locates the access to the site to approximately 110m to the east of the current access. The revised access will traverse the lands of an adjacent landowner (applicant's father) and a new 5m wide carriageway will be constructed inside the existing roadside boundary to accommodate agricultural traffic. In addition, the proposed amended entrance will comprise an 8m wide opening onto the public road, with a proposed turning area extending 25m into the field. In order to achieve the required 120m sight distances at the amended entrance, 40m of existing hedge will require to be removed towards the south east. It is proposed to replace this removed hedge with an indigenous hedge behind the line of sight.

7.3.3. In terms of the above, the Board will note that it is the stated policy of the Laois County Development Plan, 2017, NH4 refers, to preserve the County's extensive network of hedgerows and eskers which are of landscape and ecological

importance. Section 7.14 of the Plan deals with Hedgerows and notes that they provide effective farmland barriers and boundaries, as well as vital habitats and landscape corridors for a vast array of native plants and wildlife. The Plan goes further noting that there is an extensive network of hedgerows throughout County Laois, and that there will be a firm presumption against the removal of hedgerows to facilitate development including where sight lines are deficient. It is the policy of the Council, NH27 refers, to protect existing hedgerows from unnecessary removal in order to preserve the rural character of the countryside and promote biodiversity.

- 7.3.4. In addition to the above, the Board will note the site levels of the land to the north of the public road, which rises steeply from the road by approximately 2m over a short distance. The submission as part of the response to the further information request provides very little details as to how the road will be constructed on such levels. In addition, I have serious reservations regarding the visual impacts associated with the proposed access road given the site levels. Overall, I am not satisfied that the proposed or the amended access points to the site are acceptable or appropriate in terms of road safety or indeed, visual amenity of the wider rural area and would not accord with the policy requirements of the County Development Plan as they relate to the protection of hedgerows. Given the nature of the proposed development, and having regard to the history of the site, I consider that if permitted, the development will have the potential to generate significantly increased traffic volumes which will give rise to ongoing concerns.

7.4. Other Issues

7.4.1. Surface Water

Having regard to the nature of the subject site and the previous use, together with the proposals for the site, I would have concerns that the issue of surface water runoff has not been adequately addressed. This is particularly of concern given the site levels and the proximity to adjacent houses and residential sites together with the proposed area of hard surface to be introduced to the site. While I acknowledge the proposal to construct a soakpit in the vicinity of the silage storage area, no clear details for dealing with surface water runoff from the enlarged hard surfaced area has been submitted.

7.4.2. **Effluent Storage**

All agricultural development that results in manure, soiled water and slurry etc are required to comply with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 [S.I. No. 610 of 2010], as amended by European Communities (Good Agricultural Practice for Protection of Waters)(Amendment) Regulations 2011 [S.I. No. 125 of 2011]. In the context of the information submitted, the proposed provision of a 240m³ tank provides for an 18-week storage period for 40 young cattle. I am satisfied that the proposed development adequately provides for the numbers of cattle indicated.

7.5. **Appropriate Assessment**

7.5.1. The site is not located within any designated site. The closest Natura 2000 site is the Ballyprior Grassland SAC (Site Code 002256) which is located approximately 1km to the north east of the site. Clopook Wood pNHA (Site Code 000860) is located approximately 1.3km to the south east of the site and Timahoe Esker pNHA (Site Code: 000421) lies approximately 2.9km to the west.

7.5.2. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 **Recommendation**

I recommend that planning permission be refused for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

1. The traffic movements generated by the proposed development, in a location where sightlines are restricted in both directions, would endanger public safety by reason of traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. In considering the proposed amendments to the access to the site, the Board is not satisfied that the development would not result in a significant visual intrusion in the rural landscape. Having regard to the topography of the site, the elevated positioning of the proposed amended access road development, together with its depth and scale, and the removal of 40m of the road side boundary hedging, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment, contrary to the policies of the Laois County Development Plan 2017, and would set an undesirable precedent for other such prominently located development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the elevated, and restricted nature of the proposed development site, together with the proximity of the site to existing residential properties, the Board is satisfied that the development, if permitted, would result in a significant intensification of use of the site, and would result in a significant dis-amenity to existing residents by reason of visual impacts as well as impacts associated with emissions from the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
30th September 2019